D.B. Central Excise Appeal No. 13/2006
(Union of India Vs. M/s Hindustan Zinc Ltd.)

22.5.2006

HON'BLE MR RAJESH BALIA, J.
HON'BLE MR R.P. VYAS,J.

Mr. Vineet Kumar Mathur, for the appellant/s

The revenue through this appeal against the order of the Customs, Excise and Service Tax Appellate Tribunal requires this appeal to be admitted for deciding the following question as substantial question of law :-

> "Whether the learned Tribunal is right in law in allowing the modvat credit on the item MS/SS plates in the maintenance and repair work of the machinery."

However, it is brought to our notice that like question about the admissibility of the modvat credit on the various items used in workshop meant for repair and maintenance the machinery, which are used for manufacture of final product, considering them as capital goods in respect of which modvat credit is available came for the consideration before this Court in D.B. Civil Central Excise Appeal No. 05/2005 The Union of India Vs. M/s Aditya Cement and Anr. decided on 8.11.2005.

This court concluded that goods once brought in

factory for use in up-keep and maintenance of plant and machinery, which are directly used in manufacture of excisable articles, are the capital goods, and were certainly of subordinate necessity to such plant and machinery for the running of plant and is otherwise essential for its smooth and regular operations. Without proper up-keep and maintenance, the principal plant and machinery cannot function properly. Use of such capital goods is essential for smooth running of plant with greater efficiency. In other words, the goods in question are essential supplement to the plant and machinery for use in manufacturing goods, for its greater efficiency and better results and thus, it is an integral part of the process with which the primary machines are engaged. Looked from these aspects, there is no impediment for the goods in question qualifying as capital goods eligible for modvat credit.

Consequently, such goods which are necessary for running of plant and up-keeping of the machinery directly involved in the manufacturing and products were held to be eligible to avail modvat credit.

In view of the aforesaid decision of this Court rendered in D.B. Civil Central Excise Appeal No. 05/2005 we are of the opinion that for the purpose of reaching of same conclusion no substantial question of law need be raised again.

Accordingly, the appeal fails and hereby dismissed.

(R.P.VYAS), J. (RAJESH BALIA),J.

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